



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 14 2009

REPLY TO THE ATTENTION OF:

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. William D. Harvey
President and CEO
Wisconsin Power and Light Company
4902 North Biltmore Lane
Madison, Wisconsin 53718

Mr. William D. Harvey
President and CEO
Alliant Energy Corporation
4902 North Biltmore Land
Madison, Wisconsin 53718

Mr. Gary J. Wolter
President and CEO
Madison Gas and Electric Company
133 S. Blair Street
Madison, Wisconsin 53703

Mr. Gale E. Klappa
President and CEO
Wisconsin Electric Power Company
231 W. Michigan Street
Milwaukee, Wisconsin 53203

Mr. Charles A. Shrock
President and CEO
Wisconsin Public Service Corporation
700 N. Adams Street
Green Bay, WI 54307

RE: Notice and Finding of Violation Concerning Nelson Dewey, Columbia, and Edgewater
Generating Stations

Dear Messrs. Harvey, Wolter, Klappa, and Shrock:

The U.S. Environmental Protection Agency is issuing the enclosed Notice and Finding of Violation (Notice) to Wisconsin Power and Light Company, Alliant Energy Corporation, Madison Gas and Electric Company, Wisconsin Electric Power Company, and Wisconsin Public Service Corporation (collectively "Respondents"). This Notice is issued in accordance with Section 113(a) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a).

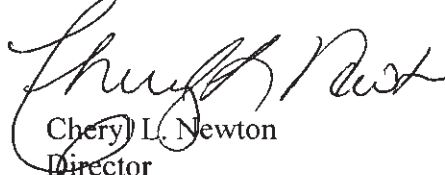
EPA has determined that Respondents are violating the Prevention of Significant Deterioration requirements under Section 165 of the Act, 42 U.S.C. § 7475, and/or the Wisconsin State Implementation Plan at the Nelson Dewey, Columbia, and Edgewater generating stations, located in Cassville, Portage, and Sheboygan, Wisconsin, respectively.

EPA is offering you an opportunity to confer with us about the violations cited in the Notice. The conference will give you an opportunity to present information on the specific findings of violations, and the steps you will take to bring the facility into compliance. Please

plan for your technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

You or your representative may contact Daniel Schaufelberger at (312) 886-6814 to request a conference. You should make your request for a conference no later than 10 calendar days after you receive this letter, and we should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely,


Cheryl L. Newton
Director
Air and Radiation Division

Enclosure

cc: John Hammen, Regional Leader
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Wisconsin Department of Natural Resources
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700 N. Adams Street
Green Bay, Wisconsin 54307

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
Alliant Energy Corporation)	Proceedings Pursuant to
Madison, Wisconsin)	Section 113(a)(1) and (a)(3) of the
)	Clean Air Act,
Madison Gas and Electric Company)	42 U.S.C. § 7413(a)(1) and (a)(3)
Madison, Wisconsin)	
)	EPA-5-10-WI-01
Wisconsin Electric Power Company)	
Milwaukee, Wisconsin)	
)	
Wisconsin Power and Light Company)	
Madison, Wisconsin)	
)	
Wisconsin Public Service Corporation)	
Green Bay, Wisconsin)	

NOTICE AND FINDING OF VIOLATION

This Notice and Finding of Violation (Notice) is issued to:

1. Wisconsin Power and Light Company (WPL) and Alliant Energy Company (Alliant or Alliant Energy), for violations of the Clean Air Act (the Act), 42 U.S.C. §§ 7401 *et seq.*, at the Nelson Dewey Generating Station located in Cassville, Wisconsin;
2. WPL, Alliant Energy, Wisconsin Public Service Corporation (WPS) and Madison Gas and Electric Company (MG&E), for violations of the Act, 42 U.S.C. §§ 7401 *et seq.*, at the Columbia Energy Center located in Portage, Wisconsin; and
3. WPL, Alliant Energy, WPS, and Wisconsin Electric Power Company (WEP), for violations of the Act, 42 U.S.C. §§ 7401 *et seq.*, at the Edgewater Generating Station located in Sheboygan, Wisconsin, respectively.

This Notice is issued pursuant to Sections 113(a)(1) and (a)(3) of the Act, 42 U.S.C. § 7413(a)(1) and (3). The authority to issue this Notice has been delegated to the Regional Administrator of U.S. Environmental Protection Agency, Region 5, and re-delegated to the Director, Air and Radiation Division.

A. STATUTORY AND REGULATORY BACKGROUND

Prevention of Significant Deterioration

1. When the Act was passed in 1970, Congress exempted existing facilities, such as the coal-fired power plant that is the subject of this Notice, from many of its requirements, Congress made it quite clear that this exemption would not last forever. As the United States Court of Appeals for the D.C. Circuit explained in *Alabama Power v. Costle*, 636 F.2d 323, 400 (D.C. Cir. 1979), “[t]he statutory scheme intends to ‘grandfather’ existing industries; but... this is not to constitute a perpetual immunity from all standards under the [Prevention of Significant Deterioration (PSD)] program.” Rather, the Act requires grandfathered facilities to install modern pollution control devices whenever the unit is proposed to be modified in such a way that its emissions may increase.

2. The PSD provisions of Part C of Title I of the Act require preconstruction review and permitting for modifications of stationary sources. See 42 U.S.C. §§ 7470-7492. Pursuant to applicable regulations, if a major stationary source located in an attainment or unclassified area is planning to make a major modification, then that source must obtain a PSD permit before beginning actual construction. See 40 C.F.R. § 52.21(a)(2)(i). To obtain this permit, the source must, among other things, undergo a technology review and apply the Best Available Control Technology (BACT); perform a source impact analysis; perform an air quality analysis and modeling; submit appropriate information; and conduct additional impact analyses as required.

3. Pursuant to Section 110 of the Act, 42 U.S.C. § 7410, each State is responsible for submitting to EPA for approval an implementation plan which specifies how the State will achieve, maintain, and enforce all primary and secondary National Ambient Air Quality Standards (NAAQS) in the State.

4. Under Section 110(a) of the Act, each State Implementation Plan (SIP) must include a permit program to regulate the modification and construction of any stationary source of air pollution as necessary to assure that NAAQS are achieved. SIPs must include enforceable emission limitations, control measures, and schedules for compliance. Upon EPA’s approval of a SIP, the plans become independently enforceable by the federal government, as stated under Section 113(a) of the Act, 42 U.S.C. § 7413(a).

5. On June 19, 1978, EPA promulgated PSD regulations pursuant to Part C of Title I of the Act. 43 *Fed. Reg.* 26403 (June 19, 1978). These regulations, codified at 40 C.F.R. § 52.21, apply to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassified under the Act.

6. The PSD regulations, at 40 C.F.R. § 52.21(a)(1), state that, “[t]he provisions of this section are applicable to any [SIP] which has been disapproved with respect to prevention of significant deterioration of air quality in any portion of any State where the existing air quality is better than the national ambient air quality standards.”

7. EPA granted final approval to Wisconsin's PSD program on May 27, 1999 (64 *Fed. Reg.* 28745), which became effective on June 28, 1999. On December 31, 2002, EPA published revisions to the Federal PSD and Nonattainment New Source Review (NANSR) regulations in 40 C.F.R. Parts 51 and 52 (67 *Fed. Reg.* 80186). These revisions are commonly referred to as the New Source Review (NSR) Reform Rule and became effective as part of the federal PSD program on March 3, 2003. EPA approved the Wisconsin Department of Natural Resources' program revision for the NSR Reform Rule on December 17, 2008 (73 *Fed. Reg.* 76560), which became effective as part of Wisconsin's federally approved SIP on January 16, 2009.

8. The PSD regulations included as part of Wisconsin's federally approved SIP at the time of the projects identified in Appendix A are the regulations that are applicable and federally enforceable for purposes of this NOV/FOV.

9. Wis. Admin. Ch. NR 406.03 in pertinent part provides that "[n]o person may begin construction, reconstruction, replacement, relocation or modification of a stationary source unless the person has a construction permit for the source" ¹

10. Wis. Admin. Ch. NR 405.01 provides that "[t]he provisions of this chapter [NR 405] apply to all new major stationary sources and all major modifications to major sources located in areas designated as attainment or unclassified." ²

11. Wis. Admin. Ch. NR 405.07 provides in pertinent part that "[n]o major stationary source or major modification may begin actual construction unless the requirements of ss. NR 405.08 to 405.16 have been met." ³ Wis. Admin. Ch. NR 405.08 to 405.16 require, among other things, a control technology review, a source impact analysis, an air quality analysis and modeling, adequate source information, and additional impact analyses, and installation of appropriate emissions control equipment in accordance with a BACT analysis.

12. Wis. Admin. Ch. NR 405.02(21) defines "major modification" as "any physical change in or change in the method of operation of a major stationary source that would result

¹ Prior to March 3, 2003, 40 C.F.R. § 52.21(i)(1) provided that "No stationary source or modification to which the requirements of paragraphs (j) through (r) of this section apply shall begin actual construction without a permit which states that the stationary source or modification would meet those requirements."

² Prior to March 2, 2003, 40 C.F.R. § 52.21(i)(3) provided that "[t]he requirements of paragraphs (j) through (r) of this section apply only to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassifiable"

³ See n. 2 above.

in a significant net emissions increase of any air contaminant subject to regulation under the act.”⁴

13. Wis. Admin. Ch. NR 405.02(22) defines “major stationary source” in pertinent part as “[a]ny of the following stationary sources of air contaminants which emits, or has the potential to emit, 100 tons per years or more of any air contaminant subject to regulation under the act: Fossil fuel fired steam electric plants of more than 250 million British thermal units per hour hear input”⁵

14. “Net emissions increase” is defined in Wis. Admin Ch. NR 405.02(24) and a net emissions increase is defined as “significant” if it meets the requirements in Wis. Admin. Ch. 405.02(27).⁶

Title V Requirements

15. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), provides that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the Act. EPA first promulgated regulations governing state operating permit programs on July 21, 1992. *See 57 Fed. Reg.* 32295; 40 C.F.R. Part 70. EPA promulgated regulations governing the Federal operating permit program on July 1, 1996. *See 61 Fed. Reg.* 34228; 40 C.F.R. Part 71.

16. Section 503 of the Act, 42 U.S.C. § 7661b, sets forth the requirement to submit a timely, accurate, and complete application for a permit, including information required to be submitted with the application.

17. Section 504(a) of the Act, 42 U.S.C. § 7661c(a), requires that each Title V permit include enforceable emission limitations and standards, a schedule of compliance, and other conditions necessary to assure compliance with applicable requirements, including those contained in a state implementation plan. 42 U.S.C. § 7661c(a).

18. 40 C.F.R. § 70.1(b) provides that: “All sources subject to these regulations shall have a permit to operate that assures compliance by the source with all applicable requirements.” See also Wis. Admin. Code Ch. NR 407.08 and 407.09.

⁴ Prior to March 3, 2003, 40 C.F.R § 52.21(b)(2)(i) defined “major modification” as “any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase” of a regulated pollutant.

⁵ Prior to March 3, 2003, 40 C.F.R § 52.21 (b)(1)(i)(a) defined “major stationary source” in pertinent part as: “[a]ny of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Act: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input”

⁶ Prior to March 3, 2003, “net emissions increase” was defined in 40 C.F.R. § 52.21(b)(3) and a net emissions increase was defined as “significant” if it met the requirements in 40 C.F.R. § 52.21(b)(23).

19. 40 C.F.R § 70.2 defines “applicable requirement” to include, “(1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under title I of the Act that implements the relevant requirements of the Act, including revisions to that plan promulgated in part 52 of this chapter . . .”

20. 40 C.F.R. § 70.7(b) provides that no source subject to 40 C.F.R. Part 70 requirements may operate without a permit as specified in the Act. See also Wis. Admin. Code Ch. NR 407.08.

21. 40 C.F.R. § 70.5(a) and (c) require timely and complete permit applications for Title V permits with required information that must be submitted and 40 C.F.R. § 70.6 specifies required permit content. See also Wis. Admin. Code Ch. NR 407.04, 407.05, and 407.06.

22. 40 C.F.R. § 70.5(b) provides that: “Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.” See also Wis. Admin. Code Ch. NR 407.05(9).

Wisconsin’s Title V Requirements

23. EPA gave interim approval of the Wisconsin Title V program on March 6, 1995. *See* 60 *Fed. Reg.* 12128 (effective on April 5, 1995). EPA fully approved the Wisconsin Title V program on December 4, 2001, *See* 66 *Fed. Reg.* 62951 (effective on November 30, 2001).

24. The Wisconsin regulations governing the Title V permitting program are codified at Wis. Admin. Code Ch. NR 407, and are federally enforceable pursuant to Section 113(a)(3) of the Act.

25. Wis. Admin. Code Ch. NR 407.09(1)(a) requires each Title V permit issued under Ch. NR 407 shall include “[e]mission limitations and standards, including those operational requirements and limitations that are applied to assure compliance with all applicable requirements at the time of permit issuance . . .” (40 C.F.R. § 70.1(b)).

26. Wis. Admin. Code Ch. NR 407.08 provides that it is unlawful to operate, among other things, a major source or a modified source except in compliance with an operation permit issued by the permitting authority, as required by Title V. (40 C.F.R. § 70.7(b)).

27. Wis. Admin. Code Ch. NR 407.04, 407.05, and 407.06 require permit applicants to submit timely and complete permit applications with all information required for operation permits, as required by Title V. (40 C.F.R. § 70.5(a) and (c)).

28. Wis. Admin. Code Ch. 407.04 requires that permit applications for Title V operation permits for modified sources for which a construction permit is required shall be submitted by the date that the application for a construction permit is filed.

29. Wis. Admin. Code Ch. NR 407.09 specifies the required permit content, as required by Title V. (40 C.F.R. § 70.6).

30. Wis. Admin. Code Ch. NR 407.05(9) provides that “[a]n applicant who has failed to submit relevant facts or has submitted incorrect information in a permit application shall, after becoming aware of this fact, promptly submit the supplemental or corrected information,” and in addition, “shall provide any additional information as necessary to address any requirements that become applicable after the date the applicant filed a complete application . . .” (40 C.F.R. § 70.5(b)).

B. FACTUAL BACKGROUND

31. At all times relevant to this Notice, Wisconsin Power and Light Company (WPL), a subsidiary of Alliant Energy Corporation (Alliant or Alliant Energy), was an owner and operator of the Nelson Dewey Generating Station, the Columbia Energy Center, and the Edgewater Generating Station. At all times relevant to this Notice, Madison Gas and Electric Company (MG&E) was an owner of the Columbia Energy Center. At all times relevant to this Notice, Wisconsin Electric Power Company (WEP) was an owner of the Edgewater Generating Station. At all times relevant to this Notice, Wisconsin Public Service Corporation (WPS) was an owner of the Columbia Energy Center and the Edgewater Generating Station. Collectively, for purposes of this Notice, WPL, Alliant, MG&E, WEP, and WPS are known as the “Respondents”.

32. Nelson Dewey Generating Station is located in Cassville, Grant County, Wisconsin; Columbia Generating Station is located in Portage, Columbia County, Wisconsin; and Edgewater Generating Station is located in Sheboygan, Sheboygan County, Wisconsin. All three of these Counties are classified as attainment for PM, NO_x, and SO₂ for all time periods relevant to the violations cited herein.

33. Nelson Dewey Generating Station is a fossil fuel-fired electric utility and steam generating station of more than 250 million British thermal units per hour (MMBtu/hr), and has a potential to emit of greater than 100 tons per year of NO_x, SO₂, CO, and PM. The station consists of two coal/petcoke/tire derived fuel-fired boilers for electric generation. Unit 1 was designed with a maximum heat input of 1,189 MMBtu/hr with a net generating capacity of 113.3 MW and was constructed in 1959. Unit 2 was designed with a maximum heat input of 1,162 MMBtu/hr with a net generating capacity of 111.8 MW and was constructed in 1962.

34. Columbia Energy Center is a fossil fuel-fired electric utility and steam generating station of more than 250 million British thermal units per hour (MMBtu/hr), and has a potential to emit of greater than 100 tons per year of NO_x, SO₂, CO, and PM.

The station consists of two coal-fired boilers for electric generation. Unit 1 was designed with a maximum heat input of 5,754 MMBtu/hr with a net generating capacity of 554.4 MW and was constructed in 1975. Unit 2 was designed with a maximum heat input of 5,872 MMBtu/hr with a net generating capacity of 563.8 MW and was constructed in 1976.

35. Edgewater Generating Station is a fossil fuel-fired electric utility and steam generating station of more than 250 million British thermal units per hour (MMBtu/hr), and has a potential to emit of greater than 100 tons per year of NO_x, SO₂, CO, and PM. The station consists of two coal/tire derived fuel-fired boilers and one coal-fire boiler for electric generation. Unit 3 was designed with a maximum heat input of 776 MMBtu/hr with a net generating capacity of 71.7 MW and was constructed in 1951. Unit 4 was designed with a maximum heat input of 3,006 MMBtu/hr with a net generating capacity of 321.2 MW and was constructed in 1969. Unit 5 was designed with a maximum heat input of 4,275 MMBtu/hr with a net generating capacity of 414.3 MW and was constructed in 1985.

36. Nelson Dewey Generating Station, Columbia Energy Center, and Edgewater Generating Station are each fossil fuel-fired steam electric plants of more than 250 MMBtu/hr heat input. Therefore, each station constitutes a “major stationary source” within the meaning of Wis. Admin. Code Ch. NR 405.02(22) and 40 C.F.R. § 52.21(b)(1)(i)(a); and a “major emitting facility” within the meaning of Section 169(1) of the Act, 42 U.S.C. § 7479(1).

37. Between the years 2000 and 2008, various physical changes and/or changes in the method of operation were made at Nelson Dewey, Columbia, and Edgewater generating stations. A description of the changes, grouped by project, is included in Appendix A.

C. NOTICE AND FINDING OF VIOLATIONS

Violations of the Prevention of Significant Deterioration Provisions

38. Each of the projects identified in Appendix A caused a significant net emissions increase, as defined at 40 C.F.R. § 52.21 and Wis. Admin. Code Chapter NR 405.02(24) and (27), for SO₂, NO_x and/or PM.

39. Each project identified in Appendix A constitutes a “major modification,” as that term is defined at 40 C.F.R. § 52.21(b)(2)(i), and Wis. Admin. Code Chapter NR 405.02(21), of the Wisconsin SIP.

40. Each of the projects identified in Appendix A for the Nelson Dewey Generating Station is a major modification that caused a significant net emissions increase of a regulated pollutant or regulated air contaminant within the meaning of the Act, 40 C.F.R. § 52.21, and Wis. Admin. Ch. NR 405.02(21), (24) and (27). For each such project, WPL and Alliant failed to apply for or obtain a construction permit prior to

commencing construction of the project. For each project identified in Appendix A for the Nelson Dewey Generating Station, WPL and Alliant violated, and continue to violate, Section 165(a) of the Act, 42 U.S.C. § 7475(a), 40 C.F.R. § 52.21, and Wis. Admin. Code Chapter NR 405 and 406, by commencing construction on, and continuing to operate, a major modification at the Nelson Dewey Generating Station without applying for or obtaining a construction permit for the project. For each such project, WPL and Alliant failed to perform a technology review, a source impact analysis, and an air quality analysis and modeling, failed to submit appropriate information and conduct additional impact analyses for the project, and failed to install appropriate emissions control equipment in accordance with a BACT analysis, prior to commencing construction on the project. For each such project, WPL and Alliant violated, and continue to violate, Section 165(a) of the Act, 42 U.S.C. § 7475(a) of the Act, 42 C.F.R. § 52.21, and Wis. Admin. Code Chapter NR 405 and 406, by failing to perform a technology review, a source impact analysis, and an air quality analysis and modeling, by failing to submit appropriate information and conduct additional impact analyses for the project, and by failing to install appropriate emissions control equipment in accordance with a BACT analysis, prior to commencing construction on the project, and by continuing to operate the facility as modified by the project without BACT.

41. Each of the projects identified in Appendix A for the Columbia Energy Center is a major modification that caused a significant net emissions increase of a regulated pollutant or regulated air contaminant within the meaning of the Act, 40 C.F.R. § 52.21, and Wis. Admin. Ch. NR 405.02(21), (24) and (27). For each such project, WPL, Alliant, MG&E, and WPS failed to apply for or obtain a construction permit prior to commencing construction on the project. For each such project, WPL, Alliant, MG&E, and WPS violated, and continue to violate, Section 165(a) of the Act, 42 U.S.C. § 7475(a), 40 C.F.R. § 52.21, and Wis. Admin. Code Chapter NR 405 and 406, by commencing constructing on, and continuing to operate, a major modification at the Columbia Energy Center without applying for or obtaining a construction permit for the project. For each such project, WPL, Alliant, MG&E, and WPS failed to perform a technology review, a source impact analysis, and an air quality analysis and modeling, failed to submit appropriate information and conduct additional impact analyses for the project, and failed to install appropriate emissions control equipment in accordance with a BACT analysis, prior to commencing construction on the project. For each such project, WPL, Alliant, MG&E, and WPS violated, and continue to violate, Section 165(a) of the Act, 42 U.S.C. § 7475(a), 42 C.F.R. § 52.21, and Wis. Admin. Code Chapter NR 405 and 406, by failing to perform a technology review, a source impact analysis, and an air quality analysis and modeling, by failing to submit appropriate information and conduct additional impact analyses for the project, and by failing to install appropriate emissions control equipment in accordance with a BACT analysis, prior to commencing construction on the project, and by continuing to operate the facility as modified the project without BACT.

42. Each of the projects identified in Appendix A for the Edgewater Generating Station is a major modification that caused a significant net emissions increase of a regulated pollutant or regulated air contaminant within the meaning of the Act, 40 C.F.R.

§ 52.21, and Wis. Admin. Ch. NR 405.02(21), (24) and (27). For each such project, WPL, Alliant, WEP, and/or WPS failed to apply for or obtain a construction permit prior to commencing construction on the project. For each such project, WPL, Alliant, WEP, and/or WPS violated, and continue to violate, Section 165(a) of the Act, 42 U.S.C. § 7475(a), 40 C.F.R. § 52.21, and Wis. Admin. Code Chapter NR 405 and 406, by commencing construction, and continuing to operate, a major modification at the Edgewater Generating Station without applying for or obtaining a construction permit for the project. For each such project, WPL, Alliant, WEP, and/or WPS failed to perform a technology review, a source impact analysis, and an air quality analysis and modeling, failed to submit appropriate information and conduct additional impact analyses for the project, and failed to install appropriate emissions control equipment in accordance with a BACT analysis, prior to commencing construction on the project. For each such project, WPL, Alliant, WEP and/or WPS violated, and continue to violate, Section 165(a) of the Act, 42 U.S.C. § 7475(a), 42 C.F.R. § 52.21, and Wis. Admin. Code Chapter NR 405 and 406, by failing to perform a technology review, a source impact analysis, and an air quality analysis and modeling, by failing to submit appropriate information and conduct additional impact analyses for the project, and by failing to install appropriate emissions control equipment in accordance with a BACT analysis, prior to commencing construction on the project, and by continuing to operate the facility as modified by the project without BACT.

43. WPL and Alliant failed to submit timely and complete Title V permit applications for the Nelson Dewey Generating Station with information pertaining to the modifications identified in Appendix A and with information concerning all applicable requirements, including, but not limited to, the requirement to apply, install and operate BACT for NO_x, SO₂, and/or PM at the plant, and also failed to supplement or correct the Title V permit applications for the plant, in violation of Sections 502, 503 and 504 of the Act, 42 U.S.C. §§ 7661a, 7661b and 7661c; the regulations at 40 C.F.R. Part 70, including, but not limited to, 40 C.F.R. §§ 70.1(b), 70.5(a), (b) and (c), 70.6 and 70.7(b); and Wisconsin Title V provisions at NR 407.

44. WPL, Alliant, MG&E, and WPS failed to submit timely and complete Title V permit applications for the Columbia Energy Center with information pertaining to the modifications identified in Appendix A and with information concerning all applicable requirements, including, but not limited to, the requirement to apply, install and operate BACT for NO_x, SO₂, and/or PM at the plant, and also failed to supplement or correct the Title V permit applications for the plant, in violation of Sections 502, 503 and 504 of the Act, 42 U.S.C. §§ 7661a, 7661b and 7661c; the regulations at 40 C.F.R. Part 70, including, but not limited to, 40 C.F.R. §§ 70.1(b), 70.5(a), (b) and (c), 70.6 and 70.7(b); and Wisconsin Title V provisions at NR 407.

45. WPL, Alliant, WEP and/or WPS failed to submit timely and complete Title V permit applications for the Edgewater Generating Station with information pertaining to the modifications identified in Appendix A and with information concerning all applicable requirements, including, but not limited to, the requirement to apply, install and operate BACT for NO_x, SO₂, and/or PM at the plant, and also failed to supplement or

correct the Title V permit applications for the plant, in violation of Sections 502, 503 and 504 of the Act, 42 U.S.C. §§ 7661a, 7661b and 7661c; the regulations at 40 C.F.R. Part 70, including, but not limited to, 40 C.F.R. §§ 70.1(b), 70.5(a), (b) and (c), 70.6 and 70.7(b); and Wisconsin Title V provisions at NR 407.

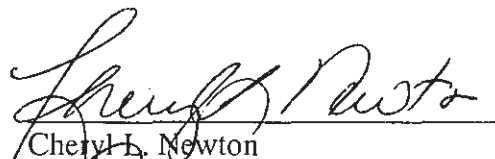
D. ENFORCEMENT

46. Sections 113(a)(1) and (3) of the Act, 42 U.S.C. § 7413(a)(1) and (3), provide that the Administrator may bring a civil action in accordance with Section 113(b) of the Act, 42 U.S.C. § 7413(b), whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of, *inter alia*, the PSD requirements of Section 165(a) of the Act, 42 U.S.C. § 7475(a); Title V of the Act, 42 U.S.C. §§ 7661-7661f, or any rule or permit issued thereunder; or the PSD provisions of the Wisconsin SIP. *See also* 40 C.F.R. § 52.23.

47. Section 113(b) of the Act, 42 U.S.C. § 7413(b), authorizes the Administrator to initiate a judicial enforcement action for a permanent or temporary injunction, and/or for a civil penalty of up to \$25,000 per day for each violation occurring on or before January 30, 1997; up to \$27,500 per day for each such violation occurring on or after January 31, 1997 and up to and including March 15, 2004; and up to \$32,500 per day for each such violation occurring on or after March 16, 2004 through January 12, 2009; and up to \$37,500 per day for each such violation occurring on or after January 13, 2009, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701, 40 C.F.R. § 19.4, and 74 *Fed. Reg.* 626 (Jan. 7, 2009) against any person whenever such person has violated, or is in violation of, *inter alia*, the requirements or prohibitions described in the preceding paragraph.

48. Section 167 of the Act, 42 U.S.C. § 7477, authorizes the Administrator to initiate an action for injunctive relief, as necessary to prevent the construction, modification or operation of a major emitting facility which does not conform to the PSD requirements in Part C of the Act.

Dated: 12/14/09


Cheryl L. Newton
Director
Air and Radiation Division

Appendix A

Facility/Unit	Project Year	Projects
<u>Nelson Dewey – Unit 1</u>	2000	- Replace superheat and reheat pendant section, screen tube replacements
	2003	- Redesign and fabricate a complete cyclone furnace and reentrant throat, install an overfire air system, increase FD fan capacity/increase total air flow to the boiler
<u>Nelson Dewey – Unit 2</u>	2001	- Replace superheater and reheat pendant section
	2002	- Redesign and fabricate a complete cyclone furnace and reentrant throat, install an overfire air system
<u>Columbia – Unit 1</u>	2006	- Replace economizer, final superheater, superheater pendant, and feedwater heaters
	2002	- Replace entire original reheater
	2007	- Replace entire deflection arch section of the rear waterwall
<u>Columbia – Unit 2</u>	2004	- Replace final superheat and lower pendant platen
	2005	- Replace reheater and superheater division panels
	2008	- Replace front and rear waterwalls
<u>Edgewater – Unit 4</u>	2002	- Replace primary superheater
	2005	- Replace reheater outlet section
<u>Edgewater – Unit 5</u>	2008	- Replace secondary superheater inlet section, replace superheater platen and condenser tubes

CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I sent a Notice of Violation and Finding of Violation, No. **EPA-5-10-WI-01**, by Certified Mail, Return Receipt Requested, to:

Mr. William D. Harvey
President and CEO
Wisconsin Power and Light Company
4902 North Biltmore Lane
Madison, Wisconsin 53718

Mr. William D. Harvey
President and CEO
Alliant Energy Corporation
4902 North Biltmore Lane
Madison, Wisconsin 53718

Mr. Gary J. Wolter
President and CEO
Madison Gas and Electric Company
133 S. Blair Street
Madison, Wisconsin 53703

Mr. Gale E. Klappa
President and CEO
Wisconsin Electric Power Company
321 W. Michigan Street
Milwaukee, Wisconsin 53203

Mr. Charles A. Shrock
President and CEO
Wisconsin Public Service Corporation
700 N. Adams Street
Green Bay, Wisconsin 54307

I also certify that I sent copies of the Notice of Violation and Finding of Violation by first class mail to:

John Hammen, Regional Leader
Southeast Region
Wisconsin Department of Natural Resources
2300 North Dr. Martin Luther King Jr. Dr.
Milwaukee, Wisconsin 53212

Eileen Pierce, Regional Leader
South Central Region
Wisconsin Department of Natural Resources
3911 Fish Hatchery Road
Madison, Wisconsin 53711

Bill Bauman, Section Chief, Compliance and Enforcement
Wisconsin Department of Natural Resources
Bureau of Air Management
101 South Webster Street, P.O. Box 7921 (AM/7)
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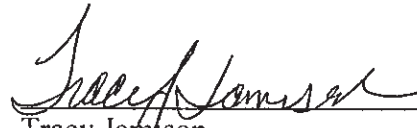
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On the 14 day of December, 2009


Tracy Jamison
Office Automation Clerk
AECAS (MI/WI)

Certified Mail Receipt Number: 7009 1680 0000 76673501